

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Fitz et al.

Application No.: 10/752,438

Filed: January 5, 2004

Group No.: 3738

Examiner: Stewart, Jason-Dennis Neilken

For: **Patient Selectable Knee Arthroplasty Devices**

**Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

**TRANSMITTAL OF SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT  
BEFORE MAILING DATE OF EITHER A FINAL ACTION  
OR NOTICE OF ALLOWANCE (37 C.F.R. § 1.97(c))**

**TIME OF TRANSMITTAL OF ACCOMPANYING  
SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

1. The information disclosure statement transmitted herewith is being filed *after* three months of the filing date of this national application or the date of entry of the national stage as set forth in Section 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but *before* the mailing date of either
  - (1) a final action under § 1.113 or
  - (2) a notice of allowance under § 1.311whichever occurs first.

**FEE**

2. Accompanying this transmittal is the fee for submission of an information disclosure statement under section 1.97(c). (\$180.00)

**FEE PAYMENT**

3. Applicant elects the option to pay the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c) (\$180.00).

Fee due \$180.00

#### **METHOD OF PAYMENT OF FEE**

4. Authorization is hereby made to charge the amount of \$180.00 to Deposit Account No. 19-4972.

Charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 19-4972.

DATE: May 30, 2008

/Alexander J. Smolenski, Jr., #47,953/

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**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

**NOTE:** *"An information disclosure statement shall be considered by the Office if filed by the applicant:*

- (1) Within three months of the filing date of a national application;*
- (2) Within three months of the date of entry of the national stage as set forth in section 1.491 in an international application; or*
- (3) Before the mailing date of a first Office action on the merits, whichever event occurs last." 37 C.F.R. section 1.97(b).*

**NOTE:** *"Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 C.F.R. section 1.56(a).*

*"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:*

- (1) each inventor named in the application;*
- (2) each attorney or agent who prepares or prosecutes the application; and*
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application."*

*37 C.F.R. section 1.56(c).*

**NOTE:** *The "duty as described in section 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by sections 1.97(b) - (d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O.G. 13-25 at 17.*

**WARNING:** *"No information disclosure statement may be filed in a provisional application." 37 C.F.R. section 1.51(b).*

**List of Sections Forming Part of This Supplemental Information Disclosure Statement**

(Information Disclosure Statement--page 1 of 7)

The following sections are being submitted for this Information Disclosure Statement:

*(check sections forming a part of this statement: discard unused sections and number pages consecutively)*

1. Preliminary Statements
2. Forms PTO/SB/08A and 08B (substitute for Form PTO-1449)
3. Statement as to Information Not Found in Patents or Publications
4. Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted
5. Cumulative Patents or Publications
6. Copies of Listed Information Items Accompanying This Statement
7. Concise Explanation of Non-English Language Listed Information Items
  - 7A. EPO Search Report
  - 7B. English Language Version of EPO Search Report
8. Translation(s) of Non-English Language Documents
9. Concise Explanation of English Language Listed Information Items (Optional)
10. Identification of Person(s) Making This Information Disclosure Statement

*(complete the following, if appropriate)*

Sections , respectively, have been continued on ADDED PAGE(S).

*NOTE : "Once the minimum requirements are met, the examiner has an obligation to consider the information." Notice of April 20, 1992 (1138 O.G. 37-41, 37).*

## **Section 1. Preliminary statements**

Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. section 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability, or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.